

## Message Text

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ORIGIN EUR-12

INFO OCT-01 ISO-00 JUSE-00 CIAE-00 COME-00 DODE-00  
DOTE-00 EB-08 FMC-02 INR-07 NSAE-00 CG-00 DLOS-09  
OES-06 SS-15 NSC-05 SP-02 L-03 H-02 EPA-04 INT-05  
TRSE-00 OMB-01 IO-13 SSO-00 NSCE-00 USIE-00  
INRE-00 PA-02 PRS-01 /098 R

DRAFTED BY EUR/CAN:KKJONIETZ:ED

APPROVED BY EUR/CAN:JHROUSE, JR.

L/OES:JBAILLY (SUBS)

-----282336Z 015274 /75

O 282214Z MAR 77

FM SECSTATE WASHDC

TO AMEMBASSY OTTAWA IMMEDIATE

UNCLAS STATE 068633

E.O. 11652: N/A

TAGS: SENV, CA

SUBJECT: OIL SPILL COMPENSATION BILL

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1. FOLLOWING NEF/JONIETZ TELECONS, QUOTED BELOW IS THE  
FOREIGN CLAIMS PORTION OF THE DRAFT BILL ENTITLED "COMPREH-  
ENSIVE OIL POLLUTION AND COMPENSATION ACT OF 1977". FULL  
TEXT OF THE BILL IS BEING FORWARDED VIA POUCH. IN DIS-  
CUSSING THIS SUBJECT WITH THE GOC, EMBASSY IS REQUESTED  
TO EMPHASIZE THAT THIS BILL IS CURRENTLY BEING MARKED UP  
BY A NUMBER OF CONGRESSIONAL COMMITTEES AND THEREFORE  
THE TEXT GIVEN BELOW MAY DIFFER FROM THAT WHICH MAY EVEN-  
TUALLY BE PASSED BY CONGRESS.

2. BEGIN TEXT:

DAMAGES AND CLAIMANTS

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SEC. 103. (A) CLAIMS FOR DAMAGES FOR ECONOMIC LOSS, ARISING  
OUT OF OR DIRECTLY RESULTING FROM OIL POLLUTION, MAY BE  
ASSERTED FOR --

--(1) REMOVAL COSTS;  
--(2) INJURY TO, OR DESTRUCTION OF, REAL OR PERSONAL PROPER-  
TY;

--(3) LOSS OF USE OF REAL OR PERSONAL PROPERTY;

--(4) INJURY TO, OR DESTRUCTION OF, NATURAL RESOURCES;

--(5) LOSS OF USE OF NATURAL RESOURCES;

--(6) LOSS OF PROFITS OR IMPAIRMENT OF EARNING CAPACITY  
DUE TO INJURY OR DESTRUCTION OF REAL OR PERSONAL PROPERTY  
OR NATURAL RESOURCES; AND

--(7) LOSS OF TAX REVENUE FOR A PERIOD OF ONE YEAR DUE TO  
INJURY TO REAL OR PERSONAL PROPERTY.

(B) A CLAIM AUTHORIZED BY SUBSECTION (A) MAY BE ASSERTED -

--(1) UNDER ITEM 2, BY ANY CLAIMANT: PROVIDED, THAT THE  
OWNER OR OPERATOR OF A VESSEL OR FACILITY INVOLVED IN AN  
INCIDENT MAY ASSERT SUCH A CLAIM ONLY IF HE CAN SHOW THAT  
HE IS ENTITLED TO A DEFENSE TO LIABILITY UNDER SECTION  
104(C)(1) OR, IF NOT ENTITLED TO SUCH A DEFENSE TO LIABIL-  
ITY UNDER SECTION 104(B): PROVIDED FURTHER, THAT WHERE HE  
IS NOT ENTITLED TO SUCH A DEFENSE TO LIABILITY BUT EN-  
TITLED TO SUCH A LIMITATION OF LIABILITY, SUCH CLAIM MAY  
BE ASSERTED ONLY AS TO THE REMOVAL COSTS INCURRED IN EXCESS  
OF THAT LIMITATION;

--(2) UNDER ITEMS 2,3,5, AND 6 BY ANY UNITED STATES CLAIM-  
ANT, IF THE PROPERTY INVOLVED IS OWNED OR LEASED, OR THE  
NATURAL RESOURCES INVOLVED WERE LAWFULLY AND DIRECTLY  
USED BY THE CLAIMANT IN THE ORDINARY COURSE OF HIS BUSINESS;

--(3) UNDER ITEM 4, BY THE PRESIDENT, AS TRUSTEE FOR  
NATURAL RESOURCES OVER WHICH THE UNITED STATES GOVERNMENT  
HAS SOVEREIGN RIGHTS OR EXERCISES EXCLUSIVE MANAGEMENT  
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AUTHORITY OR BY ANY STATE FOR NATURAL RESOURCES WITHIN THE  
BOUNDARY OF THE STATE BELONGING TO, MANAGED, CONTROLLED BY,  
OR APPERTAINING TO THE STATE; PROVIDED THAT COMPENSATION  
PAID UNDER THIS ITEM SHALL BE USED ONLY FOR RESTORATION OF  
THE NATURAL RESOURCES DAMAGED OR FOR ACQUISITION OF  
EQUIVALENT RESOURCES;

--(4) UNDER ITEM 6, BY ANY UNITED STATES CLAIMANT WHO DOES  
NOT QUALIFY UNDER CLAUSE (2) OF THIS SUBSECTION IF THE  
CLAIMANT DERIVES AT LEAST TWENTY-FIVE PER CENTUM OF  
HIS EARNINGS FROM ACTIVITIES WHICH UTILIZE THE PROPERTY OR  
NATURAL RESOURCE;

--(5) UNDER ITEM 7, BY ANY STATE OR POLITICAL SUBDIVISION  
THEREOF;

--(6) UNDER ITEMS 2 THROUGH 7, BY A FOREIGN CLAIMANT TO  
THE SAME EXTENT THAT A UNITED STATES CLAIMANT MAY ASSERT  
A CLAIM, IF -

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-----(A) THE CLAIMANT IS NOT OTHERWISE COMPENSATED FOR  
THE DAMAGES;

---(B) THE OIL WAS DISCHARGED FROM A FACILITY OR FROM  
A VESSEL OR SHIP LOCATED WITHIN THE NAVIGABLE WATERS OR  
WAS DISCHARGED IN CONNECTION WITH ACTIVITIES CONDUCTED

UNDER THE OUTER CONTINENTAL SHELF LANDS ACT, AS AMENDED,  
43 U.S.C. 1331 ET SEQ. OR THE DEEPWATER PORT ACT OF 1974,

AS AMENDED BY THIS ACT, 33 U.S.C. 150L ET SEQ; AND

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(C) RECOVERY IS AUTHORIZED BY A TREATY OR AN EXECUTIVE  
AGREEMENT BETWEEN THE UNITED STATES AND THE FOREIGN COUN-  
TRY IN WHICH THE POLLUTION OCCURRED, OR IF THE POLLUTION  
OCCURRED OUT OF THE TERRITORY OF ANY NATION, THE FOREIGN  
COUNTRY OF WHICH THE CLAIMANT IS A NATIONAL, OR IF THE  
SECRETARY OF STATE, IN CONSULTATION WITH THE ATTORNEY  
GENERAL AND OTHER APPROPRIATE OFFICIALS, CERTIFIES THAT  
SUCH COUNTRY PROVIDES COMPARABLE REMEDY FOR UNITED  
STATES CLAIMANTS: PROVIDED, HOWEVER, THAT CONDITIONS (B)  
AND (C) SHALL NOT APPLY WHERE THE CLAIM IS ASSERTED BY A  
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RESIDENT OF CANADA AND WHERE THE OIL POLLUTION INVOLVES  
OIL THAT HAS BEEN TRANSPORTED THROUGH THE PIPELINE AUTHOR-  
IZED UNDER THE TRANS-ALASKA PIPELINE AUTHORIZATION ACT,  
AS AMENDED, AND HAS BEEN LOADED ON A SHIP FOR TRANSPOR-  
TATION TO A PORT UNDER THE JURISDICTION OF THE UNITED STATES  
AND IS DISCHARGED FROM THE SHIP PRIOR TO BEING BROUGHT  
ASHORE IN SUCH A PORT; AND

--(7) UNDER ANY ITEM, BY THE ATTORNEY GENERAL, ON HIS  
OWN MOTION OR AT THE REQUEST OF THE SECRETARY (OF TRANS-  
PORTATION), ON BEHALF OF ANY GROUP OF THE UNITED STATES  
CLAIMANTS WHO MAY ASSERT A CLAIM UNDER THIS SUBSECTION,  
WHEN HE DETERMINES THAT THE CLAIMANTS WOULD BE MORE  
ADEQUATELY REPRESENTED AS A CLASS IN ASSERTING THEIR  
CLAIMS.

(C) IF THE ATTORNEY GENERAL FAILS TO TAKE ACTION UNDER  
CLAUSE (7) OF SUBSECTION (B) WITHIN SIXTY DAYS OF THE DATE  
ON WHICH THE SECRETARY (OF TRANSPORTATION) DESIGNATES A  
SOURCE UNDER SECTION 106, ANY MEMBER OF A GROUP MAY  
MAINTAIN A CLASS ACTION TO RECOVER DAMAGES ON BEHALF OF  
THAT GROUP. FAILURE OF THE ATTORNEY GENERAL TO TAKE ACTION  
SHALL HAVE NO BEARING ON ANY CLASS ACTION MAINTAINED  
BY ANY CLAIMANT, FOR DAMAGES AUTHORIZED BY THIS SECTION.  
END TEXT

3. FYI: THE EXECUTIVE BRANCH HAS, WE UNDERSTAND, NOT YET  
ESTABLISHED CRITERIA BY WHICH TO SPECIFICALLY EVAL-  
UATE WHETHER OR NOT FOREIGN COUNTRIES HAVE PROVIDED  
COMPARABLE REMEDIES FOR UNITED STATES CLAIMANTS, AS MEN-  
TIONED IN SECTION 103 PARA. (B)(6)(C). END FYI

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01-Jan-1994 12:00:00 am  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** WATER POLLUTION, POLICIES, OIL SPILLS, US CONGRESSIONAL HEARINGS, US CONGRESSIONAL DOCUMENTS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Sent Date:** 28-Mar-1977 12:00:00 am  
**Decaption Date:** 01-Jan-1960 12:00:00 am  
**Decaption Note:**  
**Disposition Action:** n/a  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:**  
**Disposition Date:** 01-Jan-1960 12:00:00 am  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1977STATE068633  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** KKJONIETZ:ED  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Expiration:**  
**Film Number:** D770106-0595  
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**Legacy Key:** link1977/newtext/t19770314/aaaaamdh.tel  
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**Litigation Codes:**  
**Litigation History:**  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Message ID:** 8b5da1b0-c288-dd11-92da-001cc4696bcc  
**Office:** ORIGIN EUR  
**Original Classification:** UNCLASSIFIED  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 4  
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**Previous Classification:** n/a  
**Previous Handling Restrictions:** n/a  
**Reference:** n/a  
**Retention:** 0  
**Review Action:** RELEASED, APPROVED  
**Review Content Flags:**  
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**Review Event:**  
**Review Exemptions:** n/a  
**Review Media Identifier:**  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**SAS ID:** 2973496  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** OIL SPILL COMPENSATION BILL --  
**TAGS:** SENV, CA  
**To:** OTTAWA  
**Type:** TE  
**vdkvgwkey:** odbc://SAS/SAS.dbo.SAS\_Docs/8b5da1b0-c288-dd11-92da-001cc4696bcc  
**Review Markings:**  
Margaret P. Grafeld  
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